

# United States Senate

WASHINGTON, DC 20510

January 29, 2004

The Honorable Michael O. Leavitt  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator Leavitt:

For over a decade, the U.S Environmental Protection agency has been developing the scientific and technological basis for regulating major sources of mercury and other hazardous air pollutants. Over the last two years, we received repeated assurances that this work would culminate in a rule that would meet the intent of the Clean Air Act. We do not believe the proposed rule announced on December 15, 2003 meets either the letter or intent of the Act and recommend that you withdraw the entire proposed rule package and re-propose a rule that meets the terms of the 1998 settlement agreement and is promulgated by December 15, 2004.

The toxicity of mercury has been proven time and again by scientists around the world and your decision on how to regulate mercury from power plants could have a major impact on women's and children's health and on the environment. The EPA's own study of electric power plants in 1998 found that "mercury from coal-fired utilities is the Hazardous Air Pollutant (HAP) of greatest potential concern." In January 2003, the Centers for Disease Control and Prevention reported that 1 in 12 women of childbearing age have mercury levels above EPA's safe health threshold. Nationally, this translates into nearly 4.9 million women of childbearing age with elevated levels of mercury.

Mercury contamination is also threatening our natural resources and economies that depend on them. Across the U.S., mercury pollution has contaminated 30 percent of our nation's lakes, estuaries and wetlands. Over 470,000 miles of streams, rivers and coasts are contaminated. These high mercury levels have led 44 states and territories to issue fish consumption advisories. Recreational fishing supports a \$116 billion industry in this country, supporting 1 million jobs and thousands of small communities. Elevated mercury levels can also threaten waterfowl and wildlife. Studies have founds that species such as mallard ducks, loons, egrets, mink and otters are particularly sensitive to mercury exposure, causing reproductive problems and early mortality.

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Over the past several years, we have raised these concerns with your Agency on numerous occasions. Again, we would like the Agency to withdraw the proposed rule and re-propose one that meets the terms of the settlement agreement. In the event that the Agency continues to proceed with publication of the proposed rule, we request that you ensure there is adequate time and opportunity for public comment by holding at least one public hearing in Region 1 and 2 and extending the comment period to 90 days. We believe this is still enough time for the Agency to review and address the comments while still meeting the December 15, 2004 deadline.

Thank you for considering our request. We look forward to working with you to reduce mercury pollution sooner rather than later.

Sincerely,

Petrus Leahy

Olympia Snowe

Jim Jeffords

J. Wilson

Jack Reed

Frank R. Lautenberg

John Chafee

Paul Harkin

Tom F. Lamy

Chris Dodd

Susan Collins